IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION No. 14662 of 2005

Between:

Paruchuri Ratnakar Rao, S/o. Late Venkatanarsaiah,
R/o. 1-7-1170, Advocate's Colony, Hanamkonda, Warangal District.

..... PETITIONER

AND

1. The State of Andhra Pradesh

Rep. by its Principal Secretary,

Revenue (UC-II) Department, Secretariat, Hyderabad.
2. The Special Officer and Competent Authority,

Urban Land Ceiling, Warangal,
3. The District Collector, Warangal District.
4. The Mandal Revenue Officer, Hanamkonda, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue appropriate writ, order or direction to the respondents more particularly one in the nature of writ of Mandamus declaring the proceeding No. B2/4586/79 on the file of the 2nd respondent, the final statement issued U/sec. 9, Notifications issued U/sec. 10(3) and Sec. 10(6) of Urban Land (Ceiling and Regulation) Act, 1976 and all other consequential proceedings issued therein are arbitrary, illegal and without authority, as the same are contrary to G.O.Ms.No. 733 Revenue (UC-II) Department, dt. 31-10-1988 and pass such other order as the Hon'ble Court may deem

just in the circumstances of the case.

Counsel for the Petitioner: MR.HARI SREEDHAR

Counsel for the Respondent No.: GP FOR REVENUE

The Court made the following :

ORDER:

The petitioner is the absolute owner and possessors of 3448.50 Sq. Yards of vacant land in Sy. No.182/4 situated at Shayampet village, Hanamkonda Mandal, Warangal District, having purchased from one V.Veera Swamy @ Kotaiah and others, all sons of V.Laxmaiah through a registered sale deed dated 26.8.1997 and since then he has been in peaceful possession and enjoyment. While so, during the second week of June, 2005, the subordinates of the 4th respondent went to the premises and began taking measurements and on query about their propriety, they stated that the said land was declared as excess land in Urban Land Ceiling proceedings by the second respondent and in terms of the directions of 3rd and 4th respondents, they are taking measurements. Therefore, the petitioner herein approached the 2nd respondent and on verification, came to know that V.Laxmaiah, filed a declaration under Sec. 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976, in respect of the agricultural lands admeasuring Ac.0.04 guntas, in Sy. No. 74/C, Ac.0.-04 guntas in Sy. No. 74/D, Ac.0.13 guntas in Sy. No. 83/B, Ac.0.14 guntas in Sy. No. 83/C, Ac.0.28 guntas in Sy. No. 169/C, Ac.1.02 guntas in Sy. No.180/4, Ac.1.12 guntas in Sy. No.181/4, Ac.2.05 guntas in Sy. No.182/4 and Ac.0.02 guntas in Sy. No.180/1, totally admeasuring Ac.5-04 guntas, situated at Shayampet village, Hanamkonda Mandal, Warangal District, before the 2nd respondent and requested for granting exemption to the said lands from the provisions of the Act, as the lands are agricultural lands and are situated in the peripheral area of Warangal Urban Agglomeration and used for the purpose of agriculture and do not fall either under the definition of *vacant land* or *Urban Land* as defined under Sec. 2(q) of

the Act and, therefore, the provisions of the Act do not apply. It is further averred that though Mr. Laxmaiah filed declaration in respect of the lands under Sec. 6(1) of the Act mentioning the names of his vendors who are his major sons and equal sharerers, no notice was issued by the 2nd respondent at any point of time, at any stage of proceedings and on 16.9.1981, without verification as to whether the provisions of the Act are applicable or not, has issued final statement under Sec. 9 of the Acts declaring that late Laxmaiah was holding excess land of 18,328 Sq. Mts. The second respondent also issued a notification under Sec. 10(3) of the Act declaring an extent of 889 Sq. Mts. in Sy. No. 169/C; 744 Sq. Mts. in Sy. Nos. 74/C and 74/D, 2723 Sq. Mts. in Sy. No. 83/B and 83/C, 5813 Sq. Mts. in Sy. No. 181/4 and 8159 Sq. Mts. in Sy.No. 182/4 situated at Shayampet village, Hanamkonda Mandal, Warangal District. On 24.10.1992, the second respondent also issued notification under Sec.10(3) and 10(6) of the Act in respect of the said extents and a panchanama dated 16.11.1998 was drawn to the effect as if the possession of those extents mentioned in the notifications under Secs. 10(3) and 10(6) of the Act, was taken, even though himself and third parties are in possession of the said land. It is further submitted that in exercise of powers under Sec. 20 of the Act, issued GO Ms. No. 733 Revenue (UC-II) Department dated 31.10.1988 granting general exemption prescribing the ceiling limit of maximum of Ac.5.00 for provisions of roads, open space, hospitals and schools in the peripheral areas of the urban agglomeration. It is further averred under the GO Ms. No. 733 Revenue (UC-II) Department, an extent of Ac.5.00 is exemptible and relied on a decision of this court in *Nalla Yakub Vs. The Government of A.P., Revenue (UC-II) Department (1993 ALT S7upplement (1) 616)* and *PS Rao Vs. The Special Officer and Competent Authority, ULC, Hyderabad (1998 (4) ALD 697)*. Seeking the above relief, the present writ petition is filed apprehending that the respondents may forcibly evict him from the possession, assailing the correctness of the proceedings and the final statement issued under Sec. 9 and notifications under Sec. 10(3) and 10(6) of the Act, in the year 1992.

As can be gathered from the facts and circumstances of the case and the averments made in the writ affidavit, Mr. Laxmaiah, who was the owner of the land, knowing fully well that the lands which are in peripheral area or Urban Agglomeration, of Warangal District, filed declaration under Sec. 6(1) of the Act, as they are Urban. Accordingly, the respondents, on considering the same, issued proceedings declaring that the said Laxmaiah is having excess land, published notification under Sec.10(3) and 10(6) of the Act and took possession of the land in the year 1998 under a panchanama dated 16.11.1998. The petitioner, who is said to have purchased the land, filed this writ petition, taking shelter under the above two judgment with the aid of GO Ms.No. 733 dated 31.10.1988.

There is no quarrel with regard to granting of general exemption under GO Ms. No. 733 Revenue (UC-II) Department dated 31.10.1988, to the extent of Ac.5.00 of land. But the issue that is involved in this writ petition is whether the alleged purchase of land, which was already declared to be excess holding of Laxmaiah as early as in 1992 and possession of which was already taken by the Government, is valid and whether filing of the writ petition after lapse of 13 long years at the behest of late Laxmaiah is entertainable; and whether the explanation offered by the petitioner that he was enlightened of the fact in June, 2005, only when the subordinates of the 4th respondent visited the land, is acceptable.

Evidently, the petitioner has purchased the land in question, which was already declared as excess holding of Laxmaiah under the provisions of the Act, as such he can neither claim a right over the said land nor take shelter under the general exemption granted by the Government. That apart, at this juncture, the contention of the petitioner that the lands are agricultural lands as defined under the provisions of the Act and they do not fall either under the definition of *vacant land* as defined under Sec. 2(q) or *urban land* as defined under Sec. 2(o) of the Act, cannot be gone into in view of the fact that the original owner himself as filed his declaration as that of *Urban Land* and this aspect has attained its finality inasmuch as the

notifications were published as long back as on 24.10.1992. For these reasons, the contentions raised by the learned counsel for the petitioner do not deserve merit. The writ petition accordingly fails and is dismissed. No order as to costs.

Elipe Dharma Rao, J.

July 7, 2005

MAS

To

1. The Principal Secretary,

Revenue (UC-II) Department,

State of Andhra Pradesh ,Secretariat, Hyderabad.
2. The Special Officer and Competent Authority,

Urban Land Ceiling, Warangal,
3. The District Collector, Warangal District.
4. The Mandal Revenue Officer, Hanamkonda, Warangal District.

5. Two CCs to the Govt. Pleader for Revenue, A.P. High Court

Building, Hyderabad.

6. 2 CD copies

7. 1 CC to MR.VENKATESWARLU

*Form-NIC-OGS/WP{**VSMI**}*